

**ARKANSAS RACING COMMISSION
ELETRONIC GAMING SECTIION
APPEALS TO COMMISSION**

Any person, firm, Association, or corporation penalized or disciplined under the Law, or under these Rules, or who is otherwise aggrieved by any action, proceeding, or decision of the EGS Section, a Franchise Holder, or the Commission's employees or agents may appeal to the Commission for a review of such action, proceeding, or decision by requesting a hearing before the Commission, which may take whatever action it deems appropriate.

Appeals to the Commission must be filed in writing at the office of the Commission within three days after the date of said action, proceeding, or imposition of said discipline or penalty.

Appeals to the Commission shall be signed by the person making it and must set forth his/her reasons for believing he/she is entitled to a hearing.

All papers filed with the Commission shall be the property of the Commission.

An appeal from any action, proceeding or decision of a Racing Official or Franchise Holder shall not serve to stay or otherwise affect such action, proceeding until the appeal has been acted upon by the Commission unless otherwise ordered by the Commission or by a Court of competent jurisdiction.

A. All hearings conducted by the Commission shall be formal hearings and governed by the following practices and procedures.

1. **Pleadings.** Pleadings before the Commission shall be by application or complaint, answer, motion and reply. All pleadings shall be typewritten and, unless otherwise required by law, filed in duplicate with one additional copy mailed to each member of the Commission at his address of record.

2. **Transcript.** The proceedings shall be reported and transcribed by a qualified court reporter or the Commission secretary. However, a transcript of the proceedings shall be made at the expense of the Commission only if directed by the Chairman or any two Commission members. Minutes of the proceedings shall be maintained by the Commission, which minutes need not be verbatim.

3. **Notice.** Except as otherwise provided by law, not less than twenty-four (24) hours notice of the proceedings shall be served upon the applicant, all other parties, and such persons that have requested notice of the proceedings in writing, which request shall be directed to the Chairman of the Commission.

B. Formal and informal hearings shall be governed by the following practices and procedures:

1. **Attorneys.** Any person or party affected by the proceedings shall be entitled to represent themselves or be represented by an attorney at law to be retained at their expense; provided, however, the Chairman may prohibit an attorney from practicing before the Commission on a showing that such attorney has personally engaged in conduct in violation of the laws of the State of Arkansas pertaining to greyhound racing or rules of the Commission.

2. **Service of Complaint and Notice.** Service of all notices and complaints shall be accomplished by sending such person, or his/her agent for service, the complaint or notice by certified or registered United States mail addressed to the recipient with return receipt requested, or by service by an officer authorized to serve process. A proof of service shall be filed with the Commission.

3. **Depositions.** Upon application to the Chairman, the Chairman may cause depositions of witnesses to be taken in such manner as they may direct.

4. **Public Hearings.** All hearings before the Commission shall be open to the public.

5. **Subpoena.** Any party to a hearing before this Commission, including an applicant, may on written or oral motion to the Chairman and the Commission, its attorney or any Commissioner, request the issuance of a subpoena, both *ad testificandum* and *duces tecum*, for any witness to appear before the Commission. Upon receiving the request, the Chairman shall issue the requested subpoena directed to the Sheriff of the County of the witness's residence or any other officer authorized by law to serve process, requiring him to summon the person named therein to attend at a particular time and place to testify as a witness. It may, when the Chairman so directs, require the witness to bring with him any book, writing paper, document, tape, record, or other thing under their control. The subpoena shall be served and the return made, both as in the manner now or hereinafter provided bylaw for the Circuit Court of this state. Any witness subpoenaed shall attend and give evidence until the matter before the Commission is decided or such witness is discharged by the Chairman. The failure to appear and be sworn shall be punished as provided by law.

In any case not provided for by this rule with regard to the issuance of subpoenas, the law of Arkansas with regard to subpoenas issued by the Circuit Courts of this state shall apply.

6. **Conduct of Hearing.** The Chairman shall have the power to preserve and enforce order during any proceeding before the Commission, to administer oaths, to rule upon all questions arising during the course of the hearing, to hold conferences before and during the hearing for the settlement or simplification of issues, to make or recommend decisions, to compel the attendance and testimony of witnesses, to require the production of books, papers, documents and other evidence and generally to regulate and guide the course of the pending proceeding. In the absence of the Chairman, a majority of the remaining members of the Commission may select one of their number to act as Chairman and the acting Chairman shall thereupon be authorized to discharge the

duties of Chairman. Except as otherwise provided by law for the conduct of hearings by the Arkansas Racing Commission, the hearings shall be conducted as prescribed for adjudication and rule-making under the Arkansas Administrative Procedures Act.

7. ***Appearance.*** Unless incapacitated, a person placing a claim or defending a privilege before the Commission shall appear in person and may not be excused from answering questions directed by the Commission or its attorney and supplying information thereto.

8. ***Consolidation of Issues.*** Hearing involving several applicants or complaints having a common issue may be joined and heard together at the discretion of the Commission.

9. ***Action by Commission.*** All orders, findings of fact, rulings, and other formal action taken by the Commission during the course of a hearing, or at the conclusion thereof, shall be in writing and a copy furnished to all parties and persons that have requested notice pursuant to (b) (3) above. Any member of the Commission may submit a minority or supplemental report or dissent. Orders of the Commission and all pleadings and applications shall be maintained on permanent file by the Commission for public inspection.

10. ***Costs.*** The Commission may tax appropriate costs to any person or party.

D. Any person or party shall, upon written application to the Commission be entitled to a formal hearing upon posting a bond for costs thereof. The provisions of this Rule are severable.